

**U.S. Department of Labor
Employment and Training Administration
Office of Foreign Labor Certification
Frequently Asked Questions
H-1B, H-1B1, and E-3 Programs
July 31, 2015**

- 1. In circumstances where the Department’s Bureau of Labor Statistics cannot produce leveled wages for a specific geographic area and occupational code due to statistical limitations in the Occupational Employment Statistics (OES) wage data, the OFLC Online Wage Library displays “N/A” for each wage level and the OFLC National Prevailing Wage Center (NPWC) assigns a standard default prevailing wage for these occupations (e.g., \$90 per hour or \$187,200 per year). Since the NPWC consistently assigns the same default prevailing wage in these circumstances, can the employer be permitted to enter on its own the standard default prevailing wage and cite “OFLC Online Data Center” on the LCA, ETA Form 9035/ 9035E?**

Yes. Where the OFLC Online Wage Library displays “N/A” for each leveled wage covering a specific geographic area and occupational code, the employer is permitted, in lieu of obtaining a prevailing wage determination from the NPWC, to enter the following information in Section G of the LCA, ETA Form 9035/ 9035E:

Item	Form Item	Example Entry on ETA Form 9035/9035E
G.7§	Agency which issued prevailing wage	“N/A”
G.7a§	Prevailing wage tracking number (if applicable)	“N/A”
G.8*	Wage level	Mark “N/A” indicating no leveled wages are available
G.9*	Prevailing wage	Enter the standard or default prevailing wage (e.g., “\$90” or “\$187,200”)
G.10*	Per (choose only one)	Mark the appropriate unit of pay (e.g., “per hour” or “per year”)
G.11*	Prevailing wage source (choose only one)	“OES”
G.11a*	Year source published	Enter the most recent OES data year
G.11b§	If “OES” and NPC did not issue prevailing wage OR “Other” in question 11, specify source:	“OFLC Online Data Center”

(*) form designation which indicates the field response is required

(§) form designation which indicates the field response is conditionally based on a response provided in a required field

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2. How should an employer identify a prevailing wage survey on the LCA?

An employer using an independent authoritative source survey or another legitimate source of wages (a prevailing wage survey) must mark "Other" in Item G.11 and specify the prevailing wage source in Item G.11b of the ETA Form 9035/9035E. Where the employer is relying on a private survey as the source of the prevailing wage, the employer must enter both the company name and the survey title in Item G.11b. If the complete survey company name and the complete survey title do not fit into the available space in Item G.11b, the employer should enter as much information as possible to clearly identify the survey company name and the title of the exact survey used.

While an employer may abbreviate words contained in the survey company name and title to fit the space provided in Item G.11b, the information provided by the employer must be sufficient to ensure that both the survey company name and the survey title are obviously identifiable. If the title of a survey includes the year the survey was conducted, the employer should not include the year in the survey title entry in Item G.11b but should only enter the year in Item G.11a.

Important Reminder: Acceptability of wage source entries in Item G.11b may vary due to abbreviations, spacing and special characters. OFLC's review of Item G.11b of the ETA Form 9035/9035E, the prevailing wage source, is limited by the information entered by an employer on the individual LCA.

Example: A 2015 survey published by XYZ Wage Surveys, Incorporated entitled *2015 Engineering Salary Survey* would appear in Section G under Items 11, 11.a and 11.b in the following manner:

Item	Form Item	Example Entry on ETA Form 9035/9035E
G.11*	Prevailing wage source (choose only one)	Other
G.11a*	Year source published	2015
G.11b§	If "OES" and NPC did not issue prevailing wage OR "Other" in question 11, specify source:	XYZ Wage Surveys: Engineering Salary Survey

(*) form designation which indicates the field response is required

(§) form designation which indicates the field response is conditionally based on a response provided in a required field

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3. How can an employer enter an untitled custom survey on the LCA?

If an employer obtains and uses a custom-made survey that conforms to the prevailing wage source requirements contained at 20 CFR 655.731, the employer must mark “Other” in Item G.11 and specifically identify the prevailing wage source in Item G.11b of the ETA Form 9035/9035E. In Item G.11b, the employer must enter both the name of the company that provided the wage source, *and* the words “custom survey” to identify an untitled custom survey source. An employer may use acronyms and abbreviations to identify the company name as long as the employer includes sufficient information in Item G.11b to ensure that the company name is obviously recognizable and the words “custom survey” appear.

Important Reminder: The words “custom survey” may *only* be entered on the ETA Form 9035/9035E when the employer is identifying a custom-made wage survey it has obtained for the occupation.

Example: If the employer obtains and uses a custom-made wage survey conducted in 2015 from a company called “XYZ Wage Surveys, Incorporated”, the ETA Form 9035/9035E Section G.11 should be completed in the following manner:

Item	Form Item	Example Entry on ETA Form 9035/9035E
G.11*	Prevailing wage source (choose only one)	Other
G.11a*	Year source published	2015
G.11b§	If “OES” and NPC did not issue prevailing wage OR “Other” in question 11, specify source:	XYZ Wage Surveys: Custom Survey

(*) form designation which indicates the field response is required

(§) form designation which indicates the field response is conditionally based on a response provided in a required field

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4. As an employer filing an LCA, where can I obtain a list of acceptable prevailing wage source surveys for Section G of the ETA Form 9035/9035E?

OFLC does not maintain and/ or endorse a list of acceptable wage source survey instruments for purposes of processing the LCA (ETA Form 9035/9035E). An employer preparing an LCA must select a wage source that complies with the Department's regulations at 20 CFR 655.731 and identify that wage source on the ETA Form 9035/9035E. This information must be obviously recognizable from a review only of the information entered on the ETA Form 9035/9035E. When completing the application, the survey entry in Item G.11b must contain the name of the survey company *and* the title of the exact survey used. **The survey title entered must be for the most recent applicable survey published.**

While OFLC does not maintain a list of acceptable wage source survey instruments, OFLC publishes on our web site LCA Disclosure Data on a quarterly and annual basis which includes certified LCAs with their Item G.11b wage source entries. The LCA Disclosure Data can be found [here](#), and a table listing examples of commonly used prevailing wage surveys from FY 2014 LCAs is provided below. LCA Disclosure Data may be helpful to an employer as a list of potentially acceptable wage sources; however, OFLC does not endorse specific wage source surveys or otherwise guarantee that wage source entries appearing in LCA Disclosure Data meet all regulatory requirements or will be approved in future-filed LCAs. LCAs are processed on a case-by-case basis.

Each employer must ensure that the wage source it relies on meets the regulatory requirements. For example, a wage source entry that was acceptable in a previous year may no longer reflect the current title of the latest wage survey publication or may no longer meet the requirements under 20 CFR 655.731. Wage survey source entries in Item G.11b must correspond to survey instruments available in the year entered in Item G.11a. OFLC will deny an LCA where the wage survey source entry in Item G.11b does not match the year in Item G.11a. Moreover, wage survey source entries in Item G.11b must reflect the most recent publication of the specific survey at the time of LCA submission. OFLC will deny an LCA with an otherwise acceptable wage survey source entry where, in Items G.11a and G.11b, the LCA identifies a version of the survey other than the most recent publication.

Important Reminder: Acceptability of wage source entries in Item G.11b may vary due to abbreviations, spacing and special characters, since OFLC's review of Item G.11b of the ETA Form 9035/9035E, the prevailing wage source, is limited by the information entered by an employer on the particular LCA . Upon submission of the application, employers attest that the prevailing wage information entered on the application complies with the Department's regulations at 20 CFR 655.731.

Table: Examples of Commonly Used Prevailing Wage Surveys on FY 2014 LCAs from the LCA Disclosure Data*

Item G.11a	Item G.11b
2014	AAMC Survey of Resident/ Fellow Stipends and Benefits Report
2014	Dietrich Spring Engineering Salary Survey
2014	Hospital and Healthcare Compensation Service Physician Salary Survey
2014	HRA-NCA Compensation Survey
2014	Mercer Benchmark Database Information Technology Survey Report
2014	Radford Global Sales Survey
2014	Radford Global Technology Survey
2014	The Survey Group Benchmark Compensation Survey
2014	Towers Watson CSR General Industry Professional (Technical and Operations)
2014	Towers Watson Professional (Administrative and Sales) Compensation Survey

** Note: The Department does not endorse specific wage source surveys or otherwise guarantee that wage source entries appearing in examples or in the Disclosure Data will be approved in future LCAs.*

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